SERVED: January 17, 2007

NTSB Order No. EA-5265

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 16th day of January, 2007

MARION C. BLAKEY, Administrator, Federal Aviation Administration, Complainant, v. CHARLES BRIAN CROSTON, Respondent.	Docket SE-17894

OPINION AND ORDER

Respondent appeals from the December 13, 2006 oral initial decision and order of Administrative Law Judge William A. Pope, II, issued after a one-day evidentiary hearing.[1] By that decision, the law judge affirmed the Administrator's emergency order revoking respondent's private pilot certificate and first-class medical certificate for violating section 67.403(a)(1) of

[1] A copy of the initial decision, an excerpt from the hearing transcript, is attached.

the Federal Aviation Regulations (FARs).[2] We deny the appeal.

The Administrator's November 15, 2006 emergency order, which was filed as the complaint in this case, alleged that respondent intentionally falsified his June 28, 2006 medical application when he answered "no" to Question 18(v) regarding whether "ever in [his] life [he] had any … history of any conviction(s) or administrative action(s) involving an offense(s) which resulted in the denial, suspension, cancellation or revocation of driving privileges[.]" As alleged in the complaint, and admitted by respondent prior to the hearing, respondent did in fact have a history of such actions, to wit:

- On or about October 10, 1983, the State of Florida suspended respondent's driver's license for a "Refuse Submit Breath/Urine/Blood Test" offense;

- On or about April 14, 1985, the State of Florida suspended respondent's driver's license for a "Refuse Submit Breath/Urine/Blood Test" offense;

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[2] FAR section 67.403 – 14 C.F.R. Part 67 – provides, in pertinent part, as follows:

> **§ 67.403 Applications, certificates, logbooks, reports, and records: Falsification, reproduction, or alteration; incorrect statements.**
>
> (a) No person may make or cause to be made–
>
> (1) A fraudulent or intentionally false statement on any application for a medical certificate … under this part;
>
> * * * * *
>
> (b) The commission by any person of an act prohibited under paragraph (a) of this section is a basis for–
>
> (1) Suspending or revoking all airman, ground instructor, and medical certificates and ratings held by that person;
>
> * * * * *

- On or about September 18, 1991, the State of Florida suspended respondent's driver's license for a "Driving with Unlawful Balance (.10% or Above)" offense;

- On or about December 6, 1995, the State of Florida suspended respondent's driver's license for a "Refuse Submit Breath/Urine/Blood Test" offense; and

- On or about December 10, 1996, the State of Florida suspended respondent's driver's license for a "Refuse Submit Breath/Urine/Blood Test" offense.[3]

At the hearing, the Administrator presented no witnesses, but rather, introduced, without objection, the stipulated written statement of Dr. Alan Seifer, who examined respondent and issued his medical certificate, and other documentation regarding respondent's medical application, airman certificates, and the aforementioned motor vehicle offenses. Respondent presented no exhibits, but testified in his defense. He testified that at the time he applied for the medical certificate, he interpreted Question 18(v) to be asking whether he had "any driving suspensions that would affect a medical certificate," explaining that because of his "prior history of drinking" he had researched the disqualifying conditions for medical certification. Hearing Transcript (Tr.) at 15. He testified, "as I was going over the application, I thought it meant did I have any DUI convictions or arrests in the preceding couple of years that would disqualify me from getting a medical certificate, which the whole thing of the

[3] The Administrator's complaint also alleged a February 8, 2000 "Driving Under the Influence" conviction in Dade County, which respondent also admitted, but the record also indicates that this conviction arose from the same incident that led to respondent's aforementioned December 6, 1995 administrative driver's license suspension.

medical certificate is to see if you have any disqualifying conditions." Tr. at 15-16. During cross-examination, respondent admitted that at the time he filled out his medical certificate application he was aware of his prior driving record. Tr. at 25. Nonetheless, respondent explained "[m]y interpretation of the question when I read it, based on what I'd looked at because of my prior history that was ten years in the past and back to 20 years in the past, was do you have any disqualifying conditions now, and that's why I answered it the way I did." Tr. at 27. Respondent holds a private pilot glider certificate, which he held prior to his application for the medical certificate and which does not require a medical certificate to exercise its privileges. He explained that he applied for the medical certificate because he decided he wanted "to pursue training in a powered aircraft[.]" Tr. at 29-30. Respondent testified that when he applied for his private pilot glider certificate, he was required to authorize a background investigation by the FAA, and, therefore, assumed the FAA was aware of his driving history. Tr. at 16-17. He also testified that he knew when he signed his medical certificate application he was authorizing the FAA to "pull my driving record," and had no intention of concealing his past driving record from the FAA. Tr. at 29.

The law judge found that respondent's claim that he misunderstood Question 18(v) on the medical certificate application was not credible. He observed that the question is "clear and unambiguous," and concluded that respondent "gave it

the meaning he wanted it to have, not the meaning that is plainly stated on its face." Tr. at 55-56. Thus, applying Board precedent regarding the required elements of proof in an intentional falsification case – (1) a false representation; (2) in reference to material facts; and (3) made with knowledge of falsity – the law judge affirmed the Administrator's charge that respondent intentionally falsified his response to Question 18(v) in violation of FAR section 67.403(a)(1). The law judge affirmed revocation of respondent's airman and medical certificates on the basis of Board precedent affirming revocation of an airman certificate, in addition to a medical certificate, where intentionally false answers were provided on a medical certificate application.

On appeal, respondent cursorily argues, essentially, that there was no basis for the law judge's conclusion that respondent properly understood Question 18(v) and that the law judge "did not consider if other actions other than revocation would have been more appropriate for the unintentional violation."[4] The

[4] Respondent makes several other unavailing arguments that appear to misread the law judge's decision as to the Administrator's alternative contention that respondent's answer on Question 18(v) was fraudulent. The law judge found that the Administrator had not proved the fraudulent charge, which in addition to the elements of an intentional falsification case that the law judge found proved, require a showing that there was an intent to deceive and that the FAA acted in reliance upon the false representation. Thus, respondent is incorrect in his assertion that the law judge did not find that his answer to Question 18(v) was "not intentionally false as required[.]" Moreover, it is not germane to the intentional falsification charge whether or not the "FAA was … harmed [by] the … wrong answer due to the short amount of time before correct information came to light." Respondent's Brief at 1.

Administrator urges us to affirm the law judge's decision.

We find no merit in respondent's appeal. First, the law judge, after observing respondent testify, clearly rejected respondent's exculpatory claims regarding his false answer to question 18(v), and nothing in the record or respondent's *ipse dixit* arguments on appeal demonstrate that this credibility finding was clearly erroneous. See Administrator v. Smith, 5 NTSB 1560, 1563 (1986) (the Board gives deference to the credibility findings of its law judges unless shown to be clearly erroneous). Second, the law judge's decision accurately recounts the relevant legal precedent, with one important omission (discussed below), and, in light of the law judge's rejection of respondent's exculpatory claims, there is ample evidence in support of the Administrator's charge of intentional falsification and the sanction of revocation. Finally, although not directly raised on appeal by respondent, the law judge's discussion of our precedent regarding sanction omitted reference to our decision in Administrator v. Culliton, NTSB Order No. EA-5178 (2005). In Culliton, the respondent was found to have intentionally falsified a medical certificate application in violation of FAR section 67.403(a)(1) when he failed to report, as required, certain potentially disqualifying medical conditions. We affirmed, on the basis of the plain language of FAR section 67.403(b), the Administrator's revocation of not only Culliton's airman and medical certificates, but, in a reversal of the law judge in that case, also his mechanic certificate (which,

like respondent's private pilot glider certificate, requires no medical certification). See Culliton at 6-7. Thus, as the cases cited by the law judge, and Culliton, make clear, revocation of airman and medical certificates is the appropriate sanction for intentional falsification of a medical certificate application because such falsification demonstrates that an airman lacks the necessary qualifications to properly exercise the privileges of these FAA certificates.

In sum, having considered all of respondent's arguments and the entire record in this proceeding, we find ample support for the Administrator's revocation order and the law judge's decision.

ACCORDINGLY, IT IS ORDERED THAT:

1. The law judge's initial decision is affirmed; and

2. The Administrator's emergency order of revocation of respondent's private pilot certificate and first-class medical certificate is affirmed.[5]

ROSENKER, Chairman, SUMWALT, Vice Chairman, and HERSMAN, HIGGINS, and CHEALANDER, Members of the Board, concurred in the above opinion and order.

[5] For purposes of this order, respondent must physically surrender his certificates – if he has not already surrendered all certificates in light of the law judge's split decision on the Administrator's emergency determination – to a representative of the Federal Aviation Administration pursuant to 14 C.F.R. § 61.19(g).

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

OFFICE OF ADMINISTRATIVE LAW JUDGES

In the matter of:	*	
	*	
MARION C. BLAKEY,	*	
Administrator,	*	
Federal Aviation Administration,	*	Docket No.: SE-17894
	*	JUDGE POPE
Complainant,	*	
v.	*	
	*	
CHARLES BRIAN CROSTON,	*	
	*	
Respondent.	*	

National Labor Relations Board
51 SW First Avenue, 13th Floor
Hearing Room 1320
Miami, Florida 33130

Wednesday,
December 13, 2006

The above-entitled matter came on for hearing, pursuant to Notice, at 9:30 a.m.

BEFORE: WILLIAM A. POPE II
Administrative Law Judge

APPEARANCES:

On behalf of the Administrator:

JOSEPH R. STANDELL, Aeronautical Center Counsel
U.S. Department of Transportation
Federal Aviation Administration
P.O. Box 25082
6500 South MacArthur Boulevard
Okalahoma City, Okalahoma 73125
(405) 954-3296

On behalf of the Respondent:

DEBORAH PASTRAN, ESQ.
333 NE Campbell Drive
Homestead, Florida 33030
(305) 246-2122

ORAL INITIAL DECISION AND ORDER

ADMINISTRATIVE LAW JUDGE POPE: This is a proceeding

under the provisions of 49 U.S.C. Section 44709, formerly Section 609 of the Federal Aviation Act, and the provisions of the Rules of Practice and Air Safety Proceedings of the National Transportation Safety Board.

Charles Brian Croston, the Respondent, has appealed the Administrator's Emergency Order of Revocation dated November 15th, 2006, which pursuant to Section 821.31(a) of the Board's rules serves as the complaint in which the Administrator ordered the revocation of his private pilot certificate, number 003155782, first class medical certificate, and any other certificate held by him because he allegedly violated Sections 67.403(b) and 67.403(c)(1) of the Federal Aviation Regulations.

In his answer to the complaint, the Respondent admitted Paragraphs 1, 2, 3, 4, 5, 6, 7, and denied the rest of the paragraphs of the complaint. The Respondent, thus, admitted that:

He is the holder of private pilot certificate number 003155782;

That on or about October 10, 1983, his driver's license was suspended by the state of Florida for refusal to submit to breath/urine/blood test offense;

On or about April 14th, 1985, his driver's license was suspended by the state of Florida for a, quote, refuse submit breath/urine/blood test offense;

On or about September 18th, 1991, his driver's license (.10 or above) offense;

And on about December 6th, 1995, his driver's license was suspended by the state of Florida for a refusal to submit to breath/urine/blood test offense;

On December 10th, 1996, his driver's license was suspended by the state of Florida for a refuse to submit to breath/urine/blood test offense;

On February 8th, 2000, he was convicted in Dade County Court, State of Florida, of driving under the influence on December 6th, 1995.

No further proof of these allegations is required.

I affirm the Administrator's order of revocation and deny the Respondent's appeal.

In an untitled and undated pleading received by the Office of Administrative Law Judges on November 29th, 2006, the Respondent stated that he wants the NTSB judge to consider that his answer of “no” to Item 18.v on medical application which asks whether in his life he had any convictions or administrative actions for alcohol or drug-related offenses which resulted in the denial, suspension, revocation or cancellation of driving privileges, or an attendance to an alcohol educational or rehabilitation program was not intentionally false or designed to mislead the FAA.

He stated that he answered “no” when the correct

answer should've been “yes”, but the incorrect answer was inadvertent and due to a misreading of the language of the question and would not impact the approval of the medical certificate due to the age of the incidents, the age of the incidents being 10, 15, and more than 20 years ago; therefore they would not cause a denial of a medical certificate because of the amount of time that had passed and with no further incidents after the year 1996 would not have impacted that approval of the medical certificate. Citing the Administrative Law Judge's decision in Administrator v. Cameron, Docket No. SE-17073, he said that the sanction imposed on an airman must be appropriate to the nature of the incident or alleged misconduct and in that case, the Administrative Law Judge held that revocation was excessive in a case in which the airman had failed to report two prior DUIs.

The Respondent stated that unlike in Cameron, he holds a glider certificate which does not require a medical certificate and that a private pilot glider certificate does not authorize an airman to operate any other type of aircraft other than a glider. He stated that one inadvertent wrong answer to one question does not show a pattern of falsification of answers or show a pattern of trying to deceive the FAA.

The Respondent stated that he signed an agreement on the medical certificate application giving consent to the FAA to check the National Driver Registry which contains the full

history of administrative actions against his driver's license, and this same information was available to the FAA when it issued his glider certificate after a background check that was part of the application process. The Respondent concluded by requesting that the FAA's order revoking his license be reversed and his license be reinstated.

In an order dated November 28th, 2006, the Chief Judge sustained the Administrator's emergency determination insofar as it relates to the Respondent's airman medical certificate and granted his challenge to the Administrator's emergency determination insofar as it relates to his private pilot certificate.

The effectiveness of the Administrator's order of revocation dated November 15th, 2006, was stayed solely as it relates to the Respondent's private pilot certificate during the pendency of his appeal of that order before the National Transportation Safety Board.

Dr. Seifer, an airman medical examiner, testified by stipulation of expected testimony. According to the stipulated testimony, he examined the Respondent on June 28th, 2006, for a first-class/student pilot certificate. He had never seen the Respondent before.

When the Respondent arrived at Dr. Seifer's office, he was asked to fill out an application for a medical certificate, FAA Form 8500-8. After he completed the

application, it was given to and reviewed by Dr. Seifer. He noted that Question 18.v was checked no. He stated that the Respondent never revealed any alcohol-related violations to him. He stated that he found the Respondent to be medically qualified and issued a first-class medical/student pilot certificate. He stated that if the Respondent had checked yes to Question 18.v, he would've had to send the application to the FAA in Oklahoma City for a decision, and he would not have issued the first-class medical/student pilot certificate. He said that the answer to Question 18.v was relevant because it might have disclosed a disqualifying condition relating to use of alcohol.

The Respondent testified in his own defense. He stated that he read Question 18.v but interpreted it to mean that he did not have any driving violations involving alcohol that would affect a pilot certificate. He said he had done research and found that substance abuse within the last couple of years would disqualify him for a medical certificate. He said he read on the NTSB website that DUI was a disqualifying condition. He said there was a background investigation by the FAA when he applied for his private pilot glider certificate and thought that the FAA would see his driver record.

Further, on the application for a medical certificate, he authorized the FAA to get his driver record. He said his last alcohol-related arrest was in 1995. In 1996,

he was arrested for reckless driving but that did not involve alcohol. He said he applied for the medical certificate and private pilot certificate at issue here because his goal was to pursue a private pilot certificate for powered flight.

Question 18.v on the FAA's medical application titled Conviction and/or Administrative Action History asks the applicants to report whether they have a history of:

(1) any conviction or convictions involving driving while intoxicated by, while impaired by, or while under the influence of alcohol or drug; or

(2) history of any conviction or convictions or administrative action or actions involving an offense or offenses which resulted in the denial, suspension, cancellation, or revocation of driving privileges or which resulted in attendance at an educational rehabilitation program.

FAR Section 67.403(a) provides that no person may make or cause to be made (1) a fraudulent or intentionally false statement on any application for a medical certificate.

Section 67.403(b) of the FARs provides that (b) a commission by any person of an act prohibited under Paragraph (a) of this section is the basis for:

(1) suspending or revoking all airmen, ground instructor, medical certificates, and ratings held by that person.

Section 67.403(c) provides that:

(c) the following may serve as a basis for suspending or revoking a medical certificate, withdrawing an authorization or SODA or denying an application for a medical certificate or request for an authorization or SODA:

(1) an incorrect statement upon which the FAA relied made in support of an application for a medical certificate.

The NTSB has long held that intentional falsification on a medical application standing alone warrants revocation. Administrator v. Wilson, NTSB Order No. EA-4321 (1995).

A similar result was reached in Administrator v. Demarchi, NTSB Order EA-4556 (1997), in which the respondent in that case was charged with and found guilty of making a false or fraudulent statement on a medical application and the sanction included revocation of both his pilot and medical certificates.

In Administrator v. McGonegal, NTSB Order No. EA-5224 (2006), the Board said that the elements of an intentionally false statement are: (1) a false representation; (2) in reference to material facts; and (3) made with knowledge of falsity.

The additional elements that must be proven to establish a fraudulent statement are that the representation be made for or with an intent to deceive; and (5) with action taken in reliance on the representation.

The Board said that intentional falsification alone is sufficient to justify revocation. The Administrator was only required to show that the Respondent's incorrect answers were made with knowledge of their falsity. The legal standards for intentional falsification does not require any showing that a respondent intended to falsify or deceive. *See* Administrator v. Brassington, NTSB Order EA-5180 (2005). In this case, the Board rejected the respondent's attempt to justify his false answer by arguing that the undisclosed information was not significant. The Board said it is well-established that an applicant's answers to all questions on the medical application are material citing Administrator v. Reynolds, NTSB Order EA-5135 (2005).

In Administrator v. Reynolds, NTSB Order EA-5135 (2005), the Board said that the three elements of making a false statement are (1) falsity; (2) materiality; and (3) knowledge. In that case, the Board says that it is well-established that an incorrect answer on a medical application constitutes prima fasci proof of an intentional falsification citing Administrator v. Manin, NTSB Order EA-4303 (1994). The Board said that the information cited in Question 18.v is material because the information sought about an applicant's history of conviction and administrative actions may be evidence of, among other things, certain medically disqualifying personality disorders. The determination of

relevance should be made by the FAA, not the respondent.

The Board said that the third requirement of an intentional falsification charge is that the statements must have been made with knowledge of their falsity. The Board noted that the instructions for Questions 18.v state if yes is checked, a description of the conviction and/or administrative actions must be given in the explanation box. The description must include:

(1) the alcohol or drug offense for which you were convicted or the type of administrative action involved (e.g. attendance at an alcohol treatment program in lieu of conviction, license denial, suspension, cancellation, or revocation for refusal to be tested);

(2) the name of the state or other jurisdiction involved; and,

(3) the day that the conviction and/or administrative action.

The Board agreed that the record in that case involving the respondent's history in aviation and apparent ability to understand other aviation certifications support a finding that he understand the importance of the question and knew his answer to the question to be false. In that case, the Board affirmed revocation of the respondent's ATP and medical certificates based on alleged falsifications of the three applications for medical certificates.

There is no dispute that the Respondent's answer of no to Question 18.v on the medical application he signed on June 28th, 2006, was false as alleged in the complaint. The Respondent admits that he answered “no” when he should've answered “yes” to Question 18.v but says that the incorrect answer was inadvertent and due to misreading of the question. He further contends, in effect, that the answer, even if incorrect, was not material because of the age of the incidents, the last of which occurred in 1996 and that would not cause the denial of a medical certificate, and he holds a private pilot glider certificate which does not require a medical certificate and does not authorize him to operate any other type of aircraft. He states that there were no aggravating circumstances. He simply did not understand the procedure. Therefore, the sanction of revocation sought by the FAA is inappropriate.

Finally, he states that he authorized the FAA to check the National Driver Registry which contains a full history of administrative actions taken against his driver's license and this information was available to the FAA when it issued his glider certificate after a background check.

I do not find the Respondent to be a credible witness when he claims that he misunderstood Question 18.v. The question is clear and unambiguous on its face and the accompanying instructions are equally unambiguous.

The Respondent admits he read the question but denies he saw the instructions. He has held a private pilot glider certificate since June 2004. As an experienced glider pilot, he is accustomed to understanding complex instructions concerning every phase of flight including, but not limited to, such things as weather reports and NOTAMS. That belies his claim that he did not understand what he read. I do not find his claim to have read the question but misunderstood it to be credible. He gave it the meaning he wanted it to have, not the meaning that is plainly stated on its face.

I find, therefore, that the Administrator has proven by a preponderance of the evidence two of the three elements of making an intentionally false statement, the offense with which he is charged. There is no doubt from the evidence and his admissions that his answer to Question 18.v was false and he knew it was false when he made it. *See* Administrator v. Reynolds, supra.

The Respondent, however, further contends that even if his answer was false, it was not material. I reject this contention. As noted above, the Board precedent firmly establishes that an applicant's answer to all questions on a medical application are material. He further argues that it was an insignificant incorrect answer because the private pilot glider certificate he holds does not require that he have a medical certificate, but the medical certificate for which the

Respondent applied was a first class medical/student pilot certificate which would allow him to take instruction in the operation of a powered aircraft and to apply for a private pilot certificate to operate aircraft with engines. That, in fact, was the reason he gave during the hearing for applying for the medical certificate/student pilot certificate at issue here. The materiality was the false answer to the medical certificate application is manifest because it would've authorized him to obtain a private pilot certificate after completing training and examination and to exercise the privileges of a private pilot certificate with single or multi engine ratings, something he does not now hold.

Board precedent holds that all an applicant's answers to all of the questions on a medical application are material. *See* Administrator v. McGonegal, Administrator v. Reynolds, which I have just cited.

The obvious significance of holding a first class medical certificate/student pilot certificate is that it would allow him to expand his authorization to fly to engine powered aircraft, not just gliders.

The Administrator is entitled to a truthful answer of Question 18.v because it might show that an applicant has a medically disqualifying condition.

Accordingly, I find the Administrator has proven by a preponderance of the evidence the third element of making an

intentionally false statement. That is, it was in reference to a material fact. I do not find that the additional elements necessary to show a fraudulent false statement have been proven, that is intent to deceive and reliance on the misstatement. He consented to the FAA obtaining his driving record which the Administrator apparently promptly did after the AME issued the medical certificate student pilot certificate at issue here and sent that application to Oklahoma City as part of the review process.

Therefore, I conclude the Administrator was not misled by his false statement and took steps to have the AME call the Respondent in for a second visit to obtain his answer to Question 18.v within two months after the AME issued the medical certificate, private pilot certificate.

The Respondent's claim that the misstatement was, in effect, de minimis and, therefore, does not warrant revocation is contrary to establish Board precedence. The Board has held that an intentional falsification alone is sufficient to justify revocation. The Administrator is only required to show that the Respondent's false answer was made with knowledge of its falsity. Here the falsification was not de minimis because it was an application for a medical certificate and a student pilot certificate which could, eventually after training, lead to a private pilot certificate allowing him to operate aircraft with engines.

Further, there is ample Board precedence supporting revocation of both the Respondent's pilot and medical certificate when the Administrator has proven that a respondent made an intentionally false statement on the medical application. *See* Administrator v. Demarchi, NTSB Order EA-4556.

Considering Board precedent, I conclude and find that the Respondent's intentionally false statement on a medical application in the absence of any explanatory or mitigating evidence demonstrates that he lacks the care, judgment, and responsibility to hold any airman certificate or airman medical certificate.

Upon the consideration of all the substantial, reliable, and probative evidence of record, I find the Administrator has proven by a preponderance of the evidence that the Respondent violated FAR Section 67.403(a)(1) and that the appropriate sanction is revocation of his private pilot certificate number 003155782, his first class medical certificate, and any other airman certificate that he may hold.

ORDER

Accordingly, it is ordered that:

(1) The Administrator's order is affirmed;

(2) The Respondent's appeal is denied.

Both parties have a right to appeal this decision and

if counsel will step up, I will give you a written copy of the rights to appeal, and I will hand a copy of the written rights to appeal to the reporter for inclusion in the record as Exhibit -- Administrative Law Judge Exhibit A-1.

EDITED & DATED ON
December 20, 2006

WILLIAM A. POPE II
Administrative Law Judge

(Whereupon, the document referred to as Administrative Law Judge's Exhibit ALJ-1 was marked and received into evidence.)

ADMINISTRATIVE LAW JUDGE POPE: Counsel, do you wish me to read the rights to appeal into the record?

MR. STANDELL: Your Honor, that isn't necessary, but could you please advise the Respondent with respect to what his options are now with respect to surrendering his -- his pilot certificate?

ADMINISTRATIVE LAW JUDGE POPE: Exactly what do you have in mind?

MR. STANDELL: Well --

ADMINISTRATIVE LAW JUDGE POPE: I don't think he has to surrender his pilot certificate --

MR. STANDELL: No --

ADMINISTRATIVE LAW JUDGE POPE: -- until this case is complete, does he?

MR. STANDELL: Absolutely. That's correct. And -- and -- but he may surrender his pilot certificate.

ADMINISTRATIVE LAW JUDGE POPE: All right. Well, you state to her what it is that you want her to know and if you misstate anything, I'll -- I'll correct it.

MR. STANDELL: That Respondent may surrender his pilot certificate to me right now and it becomes immediately effective, and that thereafter, that starts the clock with respect to his being eligible to make application again for a pilot certificate.

ADMINISTRATIVE LAW JUDGE POPE: And in the ordinary course of events, how long would that be?

MR. STANDELL: It'd be one year.

ADMINISTRATIVE LAW JUDGE POPE: All right. Well, I think counsel has stated that correctly.

MS. PASTRAN: I'm aware of that. Thank you.

ADMINISTRATIVE LAW JUDGE POPE: All right. Do you want me to read the Respondent's rights to appeal this decision into the record?

MS. PASTRAN: No, Your Honor. Its inclusion as a -- an exhibit is fine.

ADMINISTRATIVE LAW JUDGE POPE: All right. Are there any other matters that should come before me in connection with

this case by the Administrator?

MR. STANDELL: No, Your Honor.

ADMINISTRATIVE LAW JUDGE POPE: By the Respondent?

MS. PASTRAN: No, Your Honor.

ADMINISTRATIVE LAW JUDGE POPE: Very well. Then the hearing is closed. Thank you very much, ladies and gentlemen.

MR. STANDELL: Thank you, Your Honor.

MS. PASTRAN: Thank you, Your Honor.

(Whereupon, at 12:26 p.m., the hearing in the above-entitled matter was adjourned.)